

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 12/10/03 Item: 3.g.

File Number
PDC 03-040

Application Type
Planned Development Rezoning

Council District
7

Planning Area
South

Assessor's Parcel Number(s)
499-19-037

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Anastazia Aziz

Location: Southwestern corner of Tully Road and Highway 101

Gross Acreage: 12.96

Net Acreage: 12.96

Net Density: n/a

Existing Zoning: A(PD) Planned Development Existing Use: Industrial Park and Light Industrial

Proposed Zoning: A(PD) Planned Development Proposed Use: Industrial Park with up to 50% commercial uses and additional Light Industrial uses

GENERAL PLAN

Completed by: AA

Land Use/Transportation Diagram Designation
Combined Industrial/Commercial

Project Conformance:
☒ Yes ☐ No
☒ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: AA

North: Single Family and Multi-Family Residential

R-1-8 Residential & A(PD) Planned Development

East: Highway 101

Unincorporated

South: Residential

R-1-8 Residential

West: Commercial and Residential

R-1-8 Residential and CP Commercial Pedestrian

ENVIRONMENTAL STATUS

Completed by: AA

☒ San Jose 20/20 General Plan Environmental Impact Report certified on 08/16/1994
☐ Negative Declaration

☐ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: AA

Annexation Title: McKinley No. 49

Date: June 6, 1969

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval
☐ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____

Approved by: _____
☐ Action
☐ Recommendation

OWNER/APPLICANT

CONTACT

SFERS Real Estate Corp.
C/O RREEF Julie Lutz
1310 Tully Road #110
San Jose, CA 95112

Henry Cord, Cord Associates
42 S. First St., Suite D,
San Jose, CA 95113

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: AA

Department of Public Works

See attached memoranda.

Other Departments and Agencies

See attached memoranda from Fire Department, Environmental Services Department, Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, County of Santa Clara Roads and Airports Department.

GENERAL CORRESPONDENCE

See attached correspondence from Scott Miller dated June 30, 2003, June 10, 2003, Helen Bliven dated May 24, 2003, and Michael Zoldak dated November 22, 2003.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, SFERS Real Estate Corporation, is requesting a Planned Development Rezoning from A(PD) Planned Development to A(PD) Planned Development to allow additional commercial and light industrial uses on the subject developed site, known as the Tully Business Center.

Project History

The current Planned Development zoning of the site was approved in 1989 and primarily allowed uses of the *I - Industrial* Zoning District. Commercial uses of the *C-1 Commercial* Zoning District were permitted, but were limited to ten percent of the gross square footage of the buildings. In February 2001 as part of the Zoning Code update, the *I Industrial* District became the *IP Industrial Park* District and the *C-1 Commercial* District became the *CP - Commercial Pedestrian* District.

In the Spring 2003 General Plan hearings, the Planning Commission voted 6-0-0-1 (Dhillon abstained) to recommend approval of a General Plan Amendment (File No. GP03-07-03) to change the Land use/Transportation Diagram designation from *Industrial Park* to *Combined Industrial/Commercial*. The *Combined Industrial/Commercial* designation allows for developments containing a mixture of compatible commercial and industrial uses in areas which exhibit a mixed land use pattern such as the subject site. The City Council unanimously approved the amendment with the direction that staff work with the property owner, the District 7 Council office, and the community to establish an acceptable list of permitted and conditional uses determined to be compatible with the surrounding community, and that retail commercial uses be limited to a maximum of 50 percent of the project's gross building square footage.

Project Description

The site is comprised of two parcels that are located on the southwestern and southeastern corner of Zachary Way and Tully Road. The industrial park was constructed in 1986 and consists of seven buildings totaling 166,000 square-feet. One building, approximately 22,960 square-feet, is located on the southwestern parcel and six buildings, ranging in size from 12,384 square-feet to 29,952 square-feet and designed primarily for light industrial uses, are located on the southeastern parcel. The applicant is seeking the proposed rezoning

to allow for a greater percentage of commercial uses, and greater flexibility in potential future tenants. No new construction is anticipated. The combined properties contain a total of 577 existing parking spaces.

Tully road is a heavily traveled arterial road. Ingress and egress to the subject site is from Zachary Way via Tully Road. Zachary Way has no through access and serves only a small portion of an existing single-family neighborhood and the project site. VTA Bus No. 26, which runs along Tully Road with connections to the Curtner Light Rail Station and Eastridge Mall, serves the site.

The property is generally well maintained with mature landscaping. Tully Road and a southbound Highway 101 on-ramp form the site's northern boundary, Highway 101 is located to the east, single-family detached residential uses are located south of the subject site and commercial and single-family detached use are located to the west.

Proposed Uses (see attached)

The applicant proposes to allow uses in the *IP Industrial Park Zoning* District, and to increase the percentage of permitted Commercial Support uses listed in Section 20.50.110.4 from five percent to 50 percent. Additionally, the applicant has requested a small selection of additional commercial uses such as instructional art studios and private instruction that would be permitted as-of-right, and uses such as trade and vocation schools and emergency ambulance service that would be subject to the approval of a Planned Development Permit Amendment.

A limited number of Light Industrial uses are also proposed to reflect the existing uses and prior Planned Development Zoning before the Zoning Code changes of 2001.

The applicant has indicated a desire to change the zoning and the types of permitted uses in order to revitalize the Tully Business Center and reduce the number of vacant tenant spaces. The property has been plagued with vandalism and increased graffiti due to lack of tenants and activity on the site. The applicant has indicated that a wider variety of tenants that have a broader range of business hours could help to reduce not only the Center's vacancy rate, but also the acts of vandalism.

PUBLIC OUTREACH

The applicant held several community meetings over the course of the General Plan Amendment process. An additional community meeting was held on November 17, 2003 to discuss the proposed rezoning. The general response was positive, although concerns were expressed regarding lack of parking for the commercial uses and residents expressed a strong desire that late night and entertainment uses, which have the potential to negatively impact the adjacent neighborhood, be prohibited. The community also expressed concern regarding the intersection at Tully Road and Zachary Way. Residents stated that the current situation which permits left hand turns from Zachary Way onto Tully Road during certain hours is unsafe and requested that the Tully Road median island be extended to prohibit left hand turns. This would limit access to Zachary Road to right in, right-out only.

A notice of the public hearing before the Planning Commission and City Council was published and distributed to the owners and tenants of all properties located within 1,000 feet of the project site. Staff has been available to discuss the project with members of the public.

ENVIRONMENTAL REVIEW

The environmental impacts of this project were addressed in an addendum to the San Jose 20/20 General Plan EIR. A supplemental traffic analysis was prepared to address the increased commercial uses, up to 71,000 square-feet. This analysis indicates that the increased commercial uses would conform to the City's Transportation Level of Service Policy and that the current project would not change the findings of the EIR in regard to traffic.

Staff has reviewed the proposed rezoning in the context of the Final EIR and has determined that the current project does not raise new environmental concerns or increase the impacts as identified in the EIR. Based on this analysis, staff has prepared an Addendum to the General Plan EIR concluding that the EIR adequately addresses the environmental impacts of the project.

GENERAL PLAN CONFORMANCE

The proposed rezoning is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of *Combined Industrial/Commercial*. The *Combined Industrial/Commercial* designation permits a mixture of commercial and industrial uses.

The General Plan Economic Development Policy encourages a mix of land uses in appropriate locations, which contribute to a balanced economic base, including industrial suppliers and services and commercial support services. Additionally, the General Plan Commercial Land Use Policy states that existing commercial development within residential neighborhoods may expand when such development is small scale and is compatible with the adjacent residential neighborhood.

The zoning proposes a mixture of up to 50 percent industrial uses (including light industrial uses) and up to 50 percent commercial uses. Diversifying the mix of permitted uses on the property furthers the goals of the both of the above policies in that the proposal would allow a wider variety of permitted uses on the property than is currently allowed. The rezoning proposes uses that are compatible with the existing neighborhood and would provide expanded opportunities for development of commercial services to support the surrounding area.

ANALYSIS

The primary issues associated with this proposal are land use compatibility regarding both commercial and light industrial uses, and allowing a range of uses that is consistent with available parking and access.

Land Use Compatibility

The subject property is located adjacent to residential and commercial uses which is atypical of a traditional industrial park setting. Residential uses are generally considered sensitive uses and adjacent development should be carefully designed and crafted so as not to generate excessive noise or unwarranted activity, particularly during evening and weekend hours. Residents have expressed a desire to prohibit late night uses and entertainment uses which would be disruptive to the neighborhood.

Commercial Uses

Section 20.50.010.C.1 of the Zoning Ordinance states that when a property is "located within an area with a

Combined Industrial/Commercial General Plan designation, a broader range of uses, both free-standing and in combination with others, will be considered...but only when the non-industrial use does not result in the imposition of additional constraints on neighboring industrial users.” The proposal includes Commercial Support uses of the Industrial Park Zoning District and a limited additional number of commercial uses (see attached draft development standards).

The commercial support uses permitted in *Industrial Park* districts are considered appropriate commercial uses for this area because they lend greater diversity to the types of permitted uses and are complementary to the existing *Industrial Park* and *Light Industrial* uses currently established on the property. The commercial support uses listed in Section 20.50.110.4 are allowed on properties zoned *IP Industrial Park* throughout the City, but are limited to five percent of the gross floor area or no more than 10,000 square-feet of any building, whichever is less. The subject rezoning proposes to increase the percentage of allowed commercial uses for this site to 50 percent, which translates into 83,000 square-feet of the existing building area.

Additionally, the “commercial support” uses of the *IP Industrial Park* District are considered to be the least likely to become nuisance uses to the adjacent residential properties in terms of noise and late night activity. They do not include late night commercial uses, drinking establishments, entertainment, dance halls, off-site alcohol sales and other similar uses. The listed commercial support uses are intended to serve the immediate area and to increase the number of neighborhood serving uses in the in the Tully Road and McLaughlin corridor area. Eating establishments are restricted to a maximum of 650 square-feet of dining area, similar to the size restriction in *Light and Heavy Industrial* zoning districts, to ensure that they remain small and primarily serve the adjacent area. Large eating establishments, which tend to generate greater amounts of traffic and demand for parking, are precluded. The advantage of applying this list of “commercial support uses” within the *IP Industrial Park* Zoning District on the subject site lies in the fact that these uses have been established on other similar sites that have nearby residential uses, and they have not proved to be nuisance uses.

The additional commercial uses proposed are similar in nature to the “commercial support” uses in that they have limited potential to become late night nuisances, and generate limited traffic. The proposed uses that would be subject to a Planned Development Permit Amendment are consistent with the Conditional Uses of the *LI Light Industrial* Zoning District. These uses require more scrutiny because they may require the addition of certain conditions such as restrictions on hours of operation or maximum square footage to ensure neighborhood compatibility.

The “commercial support” uses strike a balance allowing a wider variety of commercial uses, yet limiting uses to those that are complementary to both the existing industrial users on the subject site and the adjacent residential neighborhoods. Additionally, increasing the amount of commercial uses will facilitate revitalization of the center and reduce the likelihood of tenant vacancies and increased vandalism that has plagued the center in the past.

Light Industrial Uses

Light industrial uses are also proposed to be added to the list of permitted uses in order to reflect what was permitted in the original zoning approved in 1989. The original zoning allowed uses in the *I Industrial* Zoning District which included such light industrial uses as ministorage and warehouse/distribution facilities. Furthermore, the buildings site layout is designed for these types of uses. The buildings all accommodate loading docks and bays and the tenant spaces can be easily renovated via the tenant improvement process to allow larger or smaller interior warehouse areas depending on individual tenants’ needs.

In 2001, the Zoning Ordinance was updated and all *I – Industrial* District property was changed to the *IP Industrial Park* District. The *Industrial Park* District generally allowed a narrower range of industrial uses such as research and development, manufacturing, assembly, testing and offices. Some light industrial uses that were permitted as-of-right in the *Industrial* district are allowed in the IP District, but are subject to a Conditional Use Permit. Given the property was originally designed to accommodate both light industrial and industrial park uses that were permitted as-of-right in the pre-2001, *I Industrial* Zoning District, staff believes it is appropriate to allow the light industrial uses listed above as permitted uses.

Parking and Access

The property will be subject to the requirements of the Parking and Loading chapter of Title 20. Industrial uses are subject to a range of required parking ratios from one space per 350 square-feet, depending on the particular use, to one space per 250 square-feet of tenant space. Commercial uses are generally subject to a required ratio of one space per 200 net square-feet of tenant space and generate a higher demand for parking than industrial uses.

The existing site currently accommodates 577 full size (9 feet x 18 feet) parking spaces. The applicant has indicated that if the parking lot were restriped to uniform space size (8.5 feet x 18 feet), the number of parking spaces would be increased by 34 for a total of 611 spaces.

Increasing the amount of commercial tenant space up to 50 percent of the existing building area, and reducing the amount of industrial tenant space to 50 percent, as requested by the applicant, would result in an increased parking demand. The applicant has demonstrated in general that the Center's parking can accommodate a mix of industrial and commercial tenants, but parking will need to be closely monitored. Because the Title 20 parking ratios vary so greatly between uses, staff has requested that a parking analysis be maintained for the property and available for review. Staff will work with the applicant at the Planned Development Permit stage(s) to ensure that on-site parking can accommodate the proposed mix of tenants, especially as they change over time.

The Department of Public Works has determined that the existing intersection at Tully Road and Zachary Way is unsafe and that traffic resulting from the additional commercial uses would aggravate the currently unsafe situation. As a result, the Public Works Department has recommended that the applicant be required to close the median island opening on Tully Road across from Zachary Way to restrict traffic to a right-in, right-out only movement at this intersection. Such a requirement has been included in the Draft Development Standards.

Conclusion

Based on the above analysis, staff concludes that the proposed project provides an opportunity to further important goals and strategies of the General Plan for economic development and revitalization, the project is compatible with the surrounding neighborhood and that the range of uses is consistent with available on-site parking.

RECOMMENDATION

Planning staff recommends that the City Council approve the subject rezoning for the following reasons:

1. The proposed project is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of *Combined Industrial/Commercial*.
2. The project furthers the goals and objectives of the City's economic development and commercial land use policies.
3. The proposed rezoning is compatible with existing and proposed uses on the adjacent and neighboring properties.

TULLY BUSINESS CENTER – PDC03-040
PROPOSED USES & DRAFT DEVELOPMENT STANDARDS

USES – The following uses are permitted

1. Uses in the *IP Industrial Park* Zoning District are permitted subject to the requirements of Table 20-110 of Title 20 of the San Jose Municipal Code.

The following *LI - Light Industrial* uses are permitted:

- a. Manufacturing & Assembly – Medium
 - b. Establishment for the repair, cleaning of household, commercial or industrial equipment or products
 - c. Miniwarehouse/ministorage
 - d. Warehouse/distribution facility
 - e. Wholesale sale establishment
2. Commercial Support uses are permitted in accordance with Section 20.50.110.1, 20.50.110.3 & 20.50.110.4 of Title 20, subject to the following amendments to Section 20.50.110.3&4:
 3. The sum of all such commercial uses in the buildings occupies no more than 50% of the total gross floor area of the sum of all buildings or no more than 83,000 square-feet, whichever is less. Public eating establishments are limited to a maximum dining area of 650 gross square-feet.
 4. Additional permitted commercial uses include:
 - a. Instructional art studios
 - b. Private instruction
 - c. personal enrichment

The following uses are permitted subject to a Planned Development Permit:

- a. School, Post Secondary
- b. School, driving class C and M license
- c. School, trade and vocational
- d. Emergency ambulance service
- e. Church/Religious assembly

Uses are subject to the Parking and Loading requirements of Title 20. A current, comprehensive parking analysis shall be maintained for the subject property and shall be available for review upon request.

MAXIMUM HEIGHT 45 feet

SETBACKS As shown on the General Development Plan

GENERAL NOTES**Water Pollution Control Plant Notice**

Pursuant to part 2.75 of chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose – Santa Clara water plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose – Santa Clara water pollution control plant to treat such sewage adequately and within the discharge standards imposed on the city by the state of California regional water control board for the San Francisco Bay region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

Post-Construction Storm Water Treatment Controls

The city's national pollutant discharge system (NPDES) permit compliance requires this project to incorporate post-construction mitigation measures to control the discharge of pollutants into the storm drainage system to the maximum extent practical. Planned development permit plans for this project shall include design details of all post construction storm water treatment controls proposed for the project to the satisfaction of the director of planning.

Transportation

Close the median island opening on Tully Road across Zachary Way. Applicant is required to construct landscaped median island along the Tully Road project frontage.